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Michael Bleser

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EXAMINER

PORTER, RACHEL L

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/715,872	<b>Applicant(s)</b> BLESER ET AL.	
	<b>Examiner</b> RACHEL L. PORTER	<b>Art Unit</b> 3626	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) ☒ Responsive to communication(s) filed on 7/29/08.

2a) ☒ This action is **FINAL**.                      2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) ☒ Claim(s) 1, 4, 5, 8-11 and 13-26 is/are pending in the application.

    4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 1, 4, 5, 8, 9-11, and 13-26 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All    b) ☐ Some \*    c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
    Paper No(s)/Mail Date \_\_\_\_\_.

4) ☐ Interview Summary (PTO-413)  
    Paper No(s)/Mail Date \_\_\_\_\_.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Notice to Applicant***

1. This communication is in response to the amendment filed 7/29/08. Claims 1, 4,5, 8,9-11, and 13-26 are pending. Claims 19-26 are new.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 20, 23, and 25 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.
4. Claims 20, and 23, are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claims 20 and 23, recite limitations that are new matter, and are therefore rejected. The newly recited limitations include

- Claim 20: "wherein the application server is further configured to receive and store answers from the customer to a quiz concerning health issues."

- Claim 23: "wherein the application server is further configured to register the customer through a "click free" registration."

In particular, the Applicant does not point to, nor was the Examiner able to find, any support for this newly added claim language within the specification as originally filed. As such, the Applicant is respectfully requested to clarify the above issues and to specifically point out support for the newly added limitations in the originally filed specification and claims, or to cancel the new matter in the reply to this Office Action.

5. The rejection of claims 1, 4,5, 8, 17, and 19-26 are rejected under 35 U.S.C. 112, second paragraph, is hereby withdrawn.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1,4,5,8-10,15-20,23 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Szabo (USPN 5,954,640) in view of "Name Change Reflects CVS' Commitment to E-commerce" (Anonymous) and in further view of Mayaud (USPN 5,845,255 A).

[Claim 1] Szabo teaches a system for accessing pharmacy data and ordering medical treatments via a network comprising:

- a network server connected to the network that is accessible by one or more customers via the network; (Figure 1; Web server (10))
- an application server connected to the network server; (Figure 1, Application server (15))
- a database connected to the application server, the database containing information concerning drugs and personal information concerning one or more of the customers; and (Figure 1; database 11-14)
- an intranet server being connected to the application server; (col. 9, lines 46-54—data sent to pharmacists/medical professionals; col. 10, lines 51-62; col. 14, lines 8-16—users may connect pharmaceutical information of different vendors)
- wherein the application server is configured to :
  - receive username from a customer with the network website; (Figure 2; col. 13, lines 43-67)
  - display one or more order displays to the customer on the website when the customer selects the order selection; and (col. 10, lines 51-62; col. 16, lines 8-14)
  - allow a customer to access the information concerning drugs and personal information concerning that customer, wherein the personal history includes a

- prescription drug history of one or more customers (col. 7, lines 62-col. 8, line 4—e.g. drugs being taken)
- provide each of the one or more customers to transmit an order to at least one vendor/one of the one or more shipping facilities (Figure 2; col. 8, lines 5-19; col. 12, lines 51-62; col. 13, lines 24-42—Application server performs optimization, allows user to evaluate a proposed purchase on a health optimization, and helps link patient to purchasing system for order placement.)

Szabo teaches the system for accessing pharmacy system as explained above. However, Szabo does not express disclose that the server interconnects to at least a plurality of member pharmacies and one or more shipping facilities. “Name change” discloses an intranet, (i.e. users logon—par. 1) web-based prescription system that interconnects a plurality of member pharmacies and one or more shipping facilities (par. 4-5). At the time of the Applicant’s invention, it would have been obvious to one of ordinary skill in the art to modify the system of Szabo with the teaching of “Name change” to include have the intranet server interconnect a plurality of member pharmacies with one or more shipping facility. As suggested by “Name change,” one would have been motivated to include this feature to allow customers to control their shopping experience by determining when and how they access the store, and to place orders for prescriptions in a way that is convenient, confidential and price competitive. (par. 6-7)

Claim 1 further recites that the application server is configured to provide customers with an option to transmit a prescription order to at least one of a plurality of member pharmacies or one or more shipping facilities, wherein at least one drug associated with the prescription is shipped from one of the one or more shipping facilities when the customer chooses the option. Szabo discloses an Internet based system for ordering medical treatments as explained above, but does not expressly disclose providing customers with the option to transmit a prescription order to at least one of a plurality of member pharmacies or one or more shipping facilities, wherein at least one drug associated with the prescription is shipped from one of the one or more shipping facilities when the customer chooses the option.

“Name change” discloses a prescription ordering system wherein the customer is given the option of transmitting a prescription order and having the prescription order shipped from a shipping facility (i.e. to the home of the customer) or having it sent to a selected member pharmacy (i.e. prepared for pick-up at a retail pharmacy). (par. 4-5) At the time of the Applicant’s invention, it would have been obvious to one of ordinary skill in the art to modify the system of Szabo with the teaching of “Name change” provide users with the option of transmitting prescription orders to a shipping facility or one of the member pharmacies. As suggested by “Name change,” one would have been motivated to include this feature to allow customers to control their shopping experience by determining when and how they access the store, and to place orders for prescriptions in a way that is convenient, confidential and price competitive. (par. 6-7)

Szabo discloses entering user name and information. However, Szabo and "Name Change" do not expressly disclose the use of passwords as part of the user access system. Mayaud discloses a prescription creation/file access system wherein the individuals submitting prescriptions and accessing the patient profiles use passwords (col. 10, lines 12-51). At the time of the applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the method of Szabo and "Name Change" in combination with the teaching of Mayaud to include the use of passwords to access profiles and/or submit prescriptions. As suggested by Mayaud, one would have been motivated to include this feature to further protect sensitive patient information, (col. 10, lines 24-27) and to provide an audit trail of individuals accessing the system (col. 18, lines 62-65)

[Claim 4] Szabo teaches the system as defined in claim 1, wherein the network server is configured to format display of the prescription history of each respective one of the one or more customers according to a plurality of selectable display formats that are selected by the respective one of the one or more customers. (Figure 3; col. 6, lines 26-35; col. 12, lines 35-61—customizable screen interface)

[Claim 5] Szabo teaches system wherein the network server is configured to allow each respective one of the one or more customers to print each particular selectable display format of the history that is selected by the respective one or the one or more



customers. (col. 6, lines 43-47; col. 12, lines 35-61—tailored screen output or printout specific for that user, which specifically includes medical history)

[Claim 8] Szabo discloses an Internet based system for ordering drugs/nutritional supplements. Szabo teaches a method wherein the particular order includes one of a new order or a refill of an existing order (col. 15, lines 5-14; col. 16, lines 27-39). Szabo does not expressly disclose that the orders placed are prescriptions.

“Name change” discloses a system for placing prescription and nonprescription drug orders, wherein the customer is given the option of transmitting a prescription order and having the prescription order shipped from a shipping facility (i.e. to the home of the customer) or having it sent to a member pharmacy (i.e. prepared for pick-up at a retail pharmacy).(par. 4-5) At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the system of Szabo with the teaching of “Name change” provide users with the option of transmitting new or existing prescription and nonprescription orders to a shipping facility or one of the member pharmacies. As suggested by “Name change,” one would have been motivated to include this feature to allow customers to control their shopping experience by determining when and how they access the store, and to place orders for prescriptions in a way that is convenient, confidential and price competitive. (par. 6-7)

[Claim 9] Szabo teaches method enabling one or more customers to order medical treatments supplements and access pharmacy data via a network comprising the steps of:

- accessing a network server hosting a network website via the network; (Figures 1-2)
- registering a customer with the network website, including prompting the user to enter the username; (Figure 2; col. 13, lines 43-67)
- displaying to the customer on the website at least one of a prescription order selection or a pharmacy data access selection; (col. 14, lines 11-16; col. 15, lines 5-14)
- displaying one or more order displays to the customer on the website when the customer selects the order selection; and (col. 10, lines 51-62; col. 16, lines 8-14)
- receiving from the customer a particular order via a communication network (col. 15, lines 5-14)
- performing a perscription interaction interaction for the particular order and sending a confirmation (col. 16, lines 3-20)
- displaying one or more pharmacy data access displays to the customer when the customer selects the pharmacy data access selection, wherein the customer is allowed to access one of a personal medical history and specific drug (i.e. supplement) information from a database. (col. 14, lines 11-16; col. 16, lines 16-26)

Szabo teaches the system for accessing pharmacy system as explained above. However, Szabo does not express disclose that the network interconnects to at least a

plurality of member pharmacies and one or more distribution facilities. "Name change" discloses an intranet, (i.e. users logon—par. 1) web-based prescription drug system that interconnects a plurality of member pharmacies and one or more distribution facilities (par. 4-5). At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the system of Szabo with the teaching of "Name change" to include have the intranet connect a plurality of member pharmacies with one or more shipping facility. As suggested by "Name change," one would have been motivated to include this feature to allow customers to control their shopping experience by determining when and how they access the store, and to place orders for prescriptions in a way that is convenient, confidential and price competitive. (par. 6-7)

Szabo discloses entering user name and information. However, Szabo and "Name Change" do not expressly disclose the use of passwords as part of the user access system. Mayaud discloses a prescription creation/file access system wherein the individuals submitting prescriptions and accessing the patient profiles use passwords (col. 10, lines 12-51). At the time of the applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the method of Szabo and "Name Change" in combination with the teaching of Mayaud to include the use of passwords to access profiles and/or submit prescriptions. As suggested by Mayaud, one would have been motivated to include this feature to further protect sensitive patient information, (col. 10, lines 24-27) and to provide an audit trail of individuals accessing the system (col. 18, lines 62-65)

[Claim 10] Szabo and Name change teach a prescription ordering method including the step of registering customers as explained in the rejection of claim 9. Szabo further discloses a method wherein the step of registering the customer further comprises the steps of:

- prompting the customer to enter a username and personal profile information; (col. 13, lines 43-67)
- transmitting and storing an entered username and personal profile information to/in a network server; (Figure 1—personal storage database ; col. 13, lines 30-37)
- enabling the customer to access at least portions of the website by subsequent entry of the entered username (Figure 3; col. 16, lines 15-39)

Szabo discloses the method above, and “Name Change” discloses that website visitors can browse the site and set up a permanent account. However, Szabo and “Name Change” do not expressly disclose the use of passwords as part of the user access system. Mayaud discloses a prescription creation/file access system wherein the individuals submitting prescriptions and accessing the patient profiles use passwords (col. 10, lines 12-51). At the time of the applicant’s invention, it would have been obvious to one of ordinary skill in the art to modify the method of Szabo and “Name Change” in combination with the teaching of Mayaud to include the use of passwords to access profiles and/or submit prescriptions. As suggested by Mayaud, one would have been motivated to include this feature to further protect sensitive patient information, (col. 10, lines 24-27) and to provide an audit trail of individuals accessing the system (col. 18, lines 62-65)

[Claim 15] Szabo and "Name Change" disclose the system of claim 9, as explained in the rejection of claim 9. Furthermore, Szabo teaches a method further comprising the steps of:

- enabling the customer to select one or more display formats for the personal history; and (Figure 3; col. 6, lines 26-35; col. 12, lines 35-61- customizable screen interface)
- enabling a customer to print a specific format selected by the customer from the one or more display formats. (col. 6, lines 43-47; col. 12, lines 35-61-- tailored screen output or printout specific for that user, which specifically includes medical history)

[Claim 16] Szabo and "Name Change" teach the method of claim 9 as explained in the rejection of claim 9. Furthermore, Szabo discloses a method wherein the particular order will one of b) be shipped to a designated postal address. (col. 6, lines 47-56; col. 10, lines 51-62; col. 15, lines 5-14—System allows the prescribed treatment to be purchased a retail facility (i.e. pharmacy store location or through the mail. )

Szabo does not disclose providing customers with an option to: A) manually pick the prescription up a selected pharmacy location, or B) ship the prescription designated postal address. "Name change" discloses a prescription ordering system wherein the customer is given the option of having the prescription shipped to the home of the customer (B) or picking it up at a member pharmacy (A). (par. 4-5) At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the system of Szabo with the teaching of "Name change" provide users with the

option of shipping prescription orders to a designated address or picking them up at one of the member pharmacies. As suggested by "Name change," one would have been motivated to include this feature to allow customers to control their shopping experience by determining when and how they access the store, and to place orders for prescriptions in a way that is convenient, confidential and price competitive. (par. 6-7)

[claim 17] The limitations of claim 17 are substantially similar to claim 1. As such, the limitations of claim 17 are addressed by the rejection of claim 1, and incorporated herein.

[claim 18] The limitations of claim 18 are substantially similar to those recited in claims 9,11 and 16. As such, the limitations are addressed by the rejections of claims 9,11 and 16, and incorporated herein.

[Claim 19]

System claim19 repeats the subject matter of claim 9 as a set of "means-plus-function" elements rather than a series of steps. As the underlying process has been shown to be fully disclosed by the teachings of Szabo, Name Change, and Mayaude in the above rejection of claim 9, it is readily apparent that these references include a system to perform the recited functions. As such, these limitations are rejected for the same reasons provided in the rejection of claim 9, and incorporated herein.

[Claim 20] Szabo discloses the system as defined in claim 1, wherein the application server is further configured to receive and store answers from the customer to a quiz concerning health issues. (Figure 2; col. 7, 62-67)

[Claim 23] Szabo discloses the system as defined in claim 1, wherein the application server is further configured to register the customer through a "click free" registration. (Figure 2)

[Claim 26] Szabo discloses the system as defined in claim 1, wherein the application server is further configured to display a status of the prescription order. (col. 16, lines 8-14)

8. Claims 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Szabo and "Name Change", in view of Mayaud as applied to claim 9, and in further view of Godin et al (US 2001/0009005)

[Claim 13] Szabo, "Name Change," and Mayaud teach the method as defined in claim 9 as explained in the rejection of claim 9. Szabo further discloses a method requiring the use of personal profile information and other identifying information to access the system, but Szabo and Name Change do not expressly disclose assigning users PIN numbers to access the system.

Godin discloses a method for providing user access to a website further comprising :

- assigning the customer a personal identification number subsequent to the step of registering the user; (par. 27)

- communicating the personal identification number to the customer via a secured communication; and (par. 23,27)
- prompting the customer to enter the personal identification number to allow the customer to access secured portions of the website. (Figure 2, 11, par. 34)

At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the method Szabo and "Name Change" in combination with Godin to provide assigned PIN's to registered system users. As suggested by Godin, one would have been motivated to include these features to further protect sensitive information and to further bolster system security (par. 23, lines 1-7).

[Claim 14] Szabo teaches a method as defined in claim 9, wherein the step of registering the customer further comprises:

- manually entering a username and a customer personal profile concerning the customer into a connection to an intranet server; (col. 6, lines 12-25)
- associating the customer in a network server (col. 6, lines 26-35)

Szabo discloses the method as disclosed above, but does not disclose providing a user name, password, or customer into a connection to an intranet server located in one of any one of a plurality of member pharmacies and one or more centralized company locations facilities. "Name change" discloses an intranet, (i.e. users login—par. 1) web-based prescription drug system that interconnects a plurality of member pharmacies and one or more central company facilities. (par. 4-5). "Name change further discloses associating the customer to network server. (par. 1 and 3) Consumers set up



permanent accounts, log on, browse the website, and order prescription and nonprescription products. At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the method of Szabo with the teaching of "Name change" to include have the intranet connect a plurality of member pharmacies with one or more shipping facility. As suggested by "Name change," one would have been motivated to include this feature to allow customers to control their shopping experience by determining when and how they access the store, and to place orders for prescriptions in a way that is convenient, confidential and price competitive. (par. 6-7)

Szabo and "Name Change" disclose the method as disclosed above. "Name Change" further discloses that the user must set up a permanent account and may have orders shipped to his/her address. However, Szabo, "Name Change" and Mayaud in combination do not expressly disclose manually entering customer contact information; and communicating at least a username and password, which enable the customer to access the network website, to the user via a secured communication using the customer contact information.

Godin discloses a system and method further comprising manually entering customer contact information; (Figures 2, 11; par. 27-28) and communicating at least a username and password, which enable the customer to access the network website, to the user via a secured communication using the customer contact information. (Figures 2, 11; par.23, 34) At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the method of Szabo and "Name Change" in

combination with the teaching of Godin. As suggested by Godin, one would have been motivated to include these features to further protect sensitive information and to further bolster system security (par. 23, lines 1-7).

9. Claims 11, 21, 22, 24, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Szabo and "Name Change", in view of Mayaud as applied to claim 1, and in further view of McCormick (US 2002/0035484 A1).

[Claim 11] Szabo teaches a method, wherein the personal prescription history includes each of current prescriptions, dosage strength, drug name, a link to drug information, and the drug's price (col. 7, lines 62-col. 8, line 4—e.g. drugs being taken; col.9, lines 44-54: medical practitioner; col. 13, lines 44-67; col. 15, lines 30-60; col. 16, lines 15-26—e.g. medical conditions and treatments)

Szabo does not expressly disclose including the medical practitioners name, but does disclose that the patient may be under the care of a physician (col. 9, lines 44-54). McCormick teaches a system wherein the the name of the prescribing physician is provided. (abstract, par. 58-59, 96 (Dr. signature)) At the time of the applicant's invention, would have been obvious to one of ordinary skill in the art to modify the system of Szabo and "Name Change", and Mayaud in combination with the teachings of McCormick. One would have motivated to include these features to provide better customer service and reduce possible errors associated with filling and refilling patient prescriptions (par. 56)

[Claims 21, 22, 24, and 25] Szabo and "Name Change", and Mayaud discloses the system as defined in claim 1, as explained in the rejection of claim 1. However, they do not expressly disclose a system wherein the application server is further configured to display the name of the prescribing doctory, display to the customer the number of refills left for the prescription order, is configured to send a refill reminder email to remind the customer to refill the prescription orwherein the application server is further configured to display a hyperlinked image of drug associated with the prescription order.

McCormick teaches a system wherein the name of the prescibing physician and number of customer refill remaining are displayed (wherein refill notices are generated to remind the customer about orders/refills (abstract, par. 58-59, 96 (Dr. signature)) McCormick further discloses that links (i.e. hyperlinks) may be used to retrieve information regarding where a prescription order may be filled.(par. 54) At the time of the applicant's invention, would have been obvious to one of ordinary skill inthe art to modify the system of Szabo and "Name Change", and Mayaud in combination with the teachings of McCormick. One would have motivated to include these features to provide better customer service and reduce possible errors associated with filling and refilling patient prescriptions (par. 56)

### ***Response to Arguments***

10. Applicant's arguments filed 7/29/08 have been fully considered but they are not persuasive.

(A) Applicant cites passages from the specification to argue the new matter rejections of claims 20, 20, and 25 under 35 USC 112, 1<sup>st</sup> paragraph.

In response, the Examiner has reconsidered and withdrawn the rejection of claim 25. However, the rejections regarding claims 20 and 23 have been maintained. As per claim 20, the cited passage fails to provide support or adequate written description for "the application server is further configured to receive and store answers from the customer to a quiz concerning health issues." The specification only mentions a link to a health quiz. Regarding claim 23, the specification describes a process in which a user may receive a username and password via email or US mail, before visiting the website first. It further describes this process as "essentially click-free to the user." Furthermore, the specification does not describe which server (intranet, network, or application) provides the "essentially click-free" registration.

(B) Applicant argues the rejection under 35 USC 112, 2<sup>nd</sup> paragraph rejections of claims 1 and 17.

The rejections of claims 1 and 17 under 35 USC 112, 2<sup>nd</sup> paragraph have been withdrawn.

(C) Applicant argues that the prior art does not disclose an intranet server that is connected to at least a plurality of member pharmacies and one or more shipping facilities.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208

USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Szabo teaches the system for accessing pharmacy system as explained above. However, Szabo does not express disclose that the server interconnects to at least a plurality of member pharmacies and one or more shipping facilities. "Name change" discloses an intranet, (i.e. users logon—par. 1) web-based prescription system that interconnects a plurality of member pharmacies and one or more shipping facilities (par. 4-5). At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the system of Szabo with the teaching of "Name change" to include have the intranet server interconnect a plurality of member pharmacies with one or more shipping facility. As suggested by "Name change," one would have been motivated to include this feature to allow customers to control their shopping experience by determining when and how they access the store, and to place orders for prescriptions in a way that is convenient, confidential and price competitive. (par. 6-7)

### ***Conclusion***

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RACHEL L. PORTER whose telephone number is (571)272-6775. The examiner can normally be reached on M-F, 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, (Christopher) Luke Gilligan can be reached on (571) 272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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